REMARKS

The claims have been provisionally rejected based on double patenting with respect to claims 1-15 of copending Application No. 09/213,856. It is respectfully requested that this rejection be held in abeyance until claims are allowed at which time , Applicants are prepared to provide appropriate terminal disclaimers.

The rejection of claims 1-4, 6-9, and 11-15 as unpatentable under 35 U.S.C. 103(a) over Gould et al. (US No. 6,088,671) in view of Morin et al. (US No. 5,748,841) is respectfully traversed.

Applicants note that although the Office Action indicates that claims 1-15 are rejected, the above rejection leaves out claims 5 and 10. Clarification is requested. In the meantime, the following arguments are meant to also be applicable to claims 5 and 10.

Applicants in their previous Amendment filed June 25, 2001 pointed out the basic deficiency of Gould et al. as a reference. <u>Gould et al. does not disclose means which are responsive to speech queries that are not speech commands to then attempt to locate commands predetermined to be applicable to the respective speech queries. The Examiner concurs that Gould has this deficiency</u>(Page 4, lines 6-7 of the last Office Action).

However, in attempting to cure this basic deficiency of the Gould et al. reference, the Examiner has picked and chosen a portion of the Morin et al. disclosure, given it an interpretation and then combined it with the disclosure of Gould et al. in a manner which is in no way suggested by either of the combined references. It is submitted that the suggestion for combining these two references in the Examiner's interpreted manner could only come from Applicants' own teaching, and, thus, cannot form any basis for a combination of references.

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To summarize, the present invention is directed to command control technology, wherein, for example, a user may navigate through a computer system's graphical user interface (GUI) by the user speaking the commands which are customarily found in the systems' menu text, icons, labels, buttons, etc.. The key to the invention are means responsive to a detected speech command for carrying out the system action corresponding to the command and means responsive to a detected speech query which is not a command for attempting to locate commands applicable to said query.

Gould et al. does not disclose or suggest means which are responsive to speech queries which are not predetermined speech commands to then attempt to locate predetermined speech commands which are applicable to the speech queries. Gould et al. only teaches distinguishing spoken text from predetermined speech commands. This is taught in Col. 4, lines 26-67 and Col. 5, lines 1-2 cited by the Examiner. The text is sent to be typed while the recognized predetermined commands are sent to be executed.

Gould et al. does even consider the processing of speech queries which are not predetermined commands. In fact, the process of Gould et al. would in all likelihood treat such non-predetermined speech queries as ordinary text, and send the query language to be typed. It should be noted that the description in Gould Col. 4, line 59 - Col. 5, line 2, sets forth the CPU compares the incoming speech to predetermined commands. Then, if there is a match to one of the predetermined commands, the predetermined command is executed. Otherwise the speech is considered text to be typed. Thus, in Gould et al., a non-predetermined speech query would be considered as text to be typed.

Morin et al. relates to a complex process for heuristically teaching a user the command languages of computer operating systems as well as programming applications for such systems through spoken user input and

feedback from the system. There is no suggestion from the basic Gould et al. reference as to why and how one skilled in the art could modify it with elements of the heuristic i.e. self-learning system for developing command terms of Morin et al..

Even if it is conceded that somewhere in the complex system of Morin et al., there is a suggestion of using a speech query to locate a specific command, why would a user of the basic Gould et al. system consider modifying it to include such querying for commands? To modify Gould et al. with the teaching Morin et al., a user skilled in the art would have to determine first how to perform the basic Gould function of distinguishing their predetermined commands from spoken text to be typed but then somehow further distinguish within the same spoken text between text to be typed and speech queries which are to be used to locate commands?

Is the Examiner suggesting we should leave out the text to be typed function of the Gould reference but then include the alleged Morin function of using spoken text as a query to locate commands? If she is, then Applicants submit that such a proposed combination of references is being made not with the requisite foresight of one skilled in the art, but rather with the hindsight obtained solely by the teaching of the present invention. This approach cannot be used to render Applicants' invention unpatentable.

> "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art references of record convey nor suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." W. L. Gore, 721 F 2d at 1553, 220 USPQ, pp. 312-313.

> "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fine, 5 USPQ 2d 1596 (C.A.F.C.) 1988.

It is submitted that the suggestion for combining Gould et al. and Morin et al. in the manner suggested by the Examiner could only come from Applicants' own teaching, and, thus, cannot form any basis for a combination of references.

In view of the foregoing, claims 1-15, all of the claims in the present patent application are submitted to be in condition for allowance, such allowance is respectfully requested.

Respectfully submitted,

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